

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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December 1, 2000

TO: Commissioners and Alternates

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SUBJECT: Final Staff Recommendation on Proposed Bay Plan Amendment No. 3-00,
Which Would Modify the San Francisco Bay Plan Regarding Dredging and
Disposal of Dredged Material, Proposed Changes to the Commission's Implementing
Regulations Regarding Disposal of Dredged Material,
and the LTMS Management Plan
(For Commission consideration on December 7, 2000)

Summary of Recommendations

The staff recommends that the Commission adopt Resolution No. 00-08 (Appendix A) that would:

1. Amend the *San Francisco Bay Plan* (Bay Plan) Dredging findings and policies to provide the Commission with the basis necessary for implementing the long-term strategy for managing dredging and disposal activities in the San Francisco Bay Area as developed through the Long Term Management Strategy (LTMS) program. The recommended Bay Plan amendment would involve decreasing in-Bay disposal of dredged material and increasing the beneficial use of dredged material as well as increasing the use of the federally-designated deep ocean disposal site;
2. Amend the Bay Plan Dredging findings and policies to limit in-Bay disposal of dredged material for habitat enhancement projects to a single pilot project (pending preparation of the wetlands Bay Plan amendment in the spring 2001);
3. Amend the Bay Plan Water-Related Industry findings to identify dredged material rehandling facilities as a water-related industry;

4. Amend the Bay Plan Recreation policies by deleting language that encourages dredging additional channels in the Bay;
5. Amend the Bay Plan Other Uses of the Shoreline policies by deleting specific language that encourages dredging additional channels in the Bay;
6. Amend the Bay Plan Maps and, where applicable, policy notes in the following manner:
 - (a) Revise Bay Plan Map 1 and accompanying notes to: (1) identify Skaggs Island, Bel Marin Keys Unit V, and North Point Property as possible wetland restoration/reuse sites, Port Sonoma Marina as a possible dredged material rehandling facility, and San Pablo Bay as a dredged material disposal site; and (2) delete references to a possible new small boat channel along the shoreline from Petaluma River to Gallinas Creek, a possible new barge channel along the Petaluma River, and a shallow draft port at the upper Petaluma River;
 - (b) Revise Bay Plan Map 2 and accompanying notes to: (1) delete the Water-Related Industry priority use designation at the three northern-most dredged material disposal ponds at Mare Island; (2) identify the Wickland Selby site and Cargill Ponds (east) as possible dredged material rehandling facilities; (3) identify Praxis Pacheco as a possible dredged material confined disposal site; and (4) identify the Carquinez Strait and Suisun Bay Channel dredged material disposal sites;
 - (c) Revise Bay Plan Map 3 and accompanying notes to identify Collinsville as a possible dredged material habitat enhancement and/or rehandling site;
 - (d) Revise Bay Plan Maps 4 and 5 and accompanying notes to identify the Alcatraz dredged material disposal sites, the Port of Oakland's Middle Harbor as a possible dredged material reuse site for habitat enhancement, and the former Alameda Naval Air Station as a dredged material reuse site;
 - (e) Revise Map 6 and accompanying notes to delete reference to dredging of a possible shoreline channel adjacent to Bay Slough in Redwood City; and

- (f) Revise Map 7 and accompanying notes to delete reference to possible shallow draft port adjacent to Guadalupe Slough in Mountain View;
- 7. Amend Resolution 16, which sets the boundaries of priority use areas along the shoreline, to reflect the deletion of the three northern-most dredged material disposal ponds at Mare Island;
- 8. Approve the Environmental Assessment of Bay Plan Amendment No. 3-00 as contained in the Staff Report and Preliminary Recommendations dated June 9, 2000, August 22, 2000, and September 29, 2000, and find there will be no substantial environmental impacts created by the Bay Plan amendment.

An affirmative vote of two-thirds of the Commission membership (18 members) is required to amend the Bay Plan findings, policies and maps.

The staff further recommends that the Commission:

- 1. Add Sections 10720-10729 to the Commission's implementing regulations regarding the implementation of a mandatory allocation system for in-Bay disposal of dredged material (Appendix B); and
- 2. Authorize the Commission's Chairman and Executive Director to sign the final LTMS Management Plan on behalf of the Commission.

Long Term Management Strategy

In 1990, the U.S. Army Corps of Engineers (Corps), San Francisco Bay Regional Water Quality Control Board (Regional Board), U.S. Environmental Protection Agency (USEPA), and the State Water Quality Control Board (State Board), created the LTMS to address problems associated with dredging and disposal in the San Francisco Bay, including limited in-Bay disposal site capacity, potential environmental impacts, and differing agency policies regarding dredging and disposal. In 1991, the state Legislature passed the San Francisco Bay Dredging Act, which directed and funded the Commission's involvement in the LTMS. In 1992, the Commission amended its Bay Plan Dredging findings and policies on an interim basis pending completion of the LTMS.

The LTMS technical studies and demonstration projects regarding dredging, disposal, and beneficial reuse of material became the basis for framing and considering alternative management options and choosing the long-term strategy for the region. This strategy—identified in the Final Policy Environmental Impact Statement/Programmatic Environmental Impact Report (EIS/EIR) for the LTMS (October, 1998) and in the federal Record of Decision (ROD) for the program (July, 1999)—involves taking approximately 40 percent of the dredged material to beneficial reuse sites, and 40 percent to the federally designated deep ocean site, and limiting disposal at the in-Bay sites to 20 percent—approximately 1 mcy per year.

Recognizing that this new strategy requires a significant decrease in historic in-Bay disposal volumes, the LTMS agencies proposed that implementation occur gradually over a 12-year period in order to reduce economic dislocations to dredgers and allow arrangements to be made for new larger-scale beneficial reuse sites to come on-line. The Draft *LTMS Management Plan* (June, 2000) contains guidance for implementing the new management strategy, including the allocation strategy for future use of the dispersive in-Bay disposal sites, mechanisms for implementing beneficial reuse sites, seasonal dredging and disposal restrictions to protect special-status species prepared by the resource agencies, and information about permit application and review by the Dredged Material Management Office (DMMO). The information collected and analyzed through the LTMS as well as the new management strategy for the region has provided the basis for the proposed amendments to the Commission's Bay Plan and implementing regulations related to dredging and dredged material disposal and reuse activities.

Staff Report and Preliminary Recommendation

On May 18, 2000, the Commission held a public hearing and vote on a request of the Executive Director to amend the Bay Plan findings and policies related to dredging and dredged material disposal, and, on May 19, 2000, mailed a Brief Descriptive Notice of the proposed amendment. Additionally, on May 19, 2000, the related *Staff Report and Recommendation on Proposed Adoption of Commission Regulations, Chapter Seven, Article 4, Sections 10720 through 10729, Dredging*, and the notice of proposed rule-making were mailed.

On June 9, 2000, a staff report and preliminary recommendation regarding proposed Bay Plan Amendment 3-00 were mailed. The proposed amendments to the Bay Plan would provide the policy basis for implementation of the LTMS, by, among other things: (1) reducing in-Bay disposal of dredged material; (2) increasing use of alternatives to in-Bay disposal and beneficial reuse projects throughout the region; (3) specifying the role of the pilot Dredged Material Management Office (DMMO); (4) specifying when and how the Commission should approve beneficial reuse of dredged material in the Bay for habitat purposes; and (5) increasing management and monitoring of disposal sites. The proposed changes to the Commission's regulations would provide the mechanism for the Commission to implement the transition to decreased in-Bay disposal volumes as called for in the proposed Bay Plan amendments, including the implementation of an allocation program for in-Bay disposal of dredged material if voluntary efforts are not successful. Other information in the staff report and preliminary recommendation included: (1) the environmental assessment regarding the proposed Bay Plan amendments; (2) the *California Environmental Quality Act (CEQA) - Equivalent Document on the Proposed Amendment to the San Francisco Bay Plan for Using Dredged Material for Bay Habitat Projects*; and (3) the Executive Summary from the draft *LTMS Management Plan* issued on June 9, 2000.

On August 3, 2000 and on August 17, 2000, the Commission held a public hearing regarding the staff report and preliminary recommendation regarding proposed Bay Plan Amendment 3-00 and related changes to the Commission's regulations. In response to public comments, the staff mailed a revised staff report and preliminary recommendation on August 22, 2000 that clarified proposed policy guidance for the beneficial reuse of dredged material in the Bay for habitat creation (Appendix C). (Table 1 documents the specific changes made to the proposed Bay Plan Dredging Policy 11).

On September 21, 2000, the Commission held a public hearing regarding the revised staff report and preliminary recommendation mailed on August 22, 2000. In response to comments received, primarily regarding the beneficial use of material for in-Bay habitat restoration and the implementation of an allocation system for in-Bay dredged material disposal, the staff report and preliminary recommendation were again revised and mailed on September 29, 2000 (Table 1). Additionally, on September 29, 2000, a revised *CEQA-Equivalent Document on the Proposed Amendment to the San Francisco Bay Plan for Using Dredged Material for Bay Habitat Projects* was mailed.

The Commission held public hearings on the September 29, 2000 revised staff report and preliminary recommendation on both November 6, 2000 and November 16, 2000. At both hearings, comments received were (Appendix C) primarily regarding the proposed Bay Plan policies pertaining to the beneficial use of dredged material for habitat restoration in the Bay and the implementation of the allocation system for in-Bay disposal of dredged material (Appendix C). The Commission closed the public hearing at its November 16, 2000 meeting.

On November 21, 2000, the Commission mailed a *15-Day Notice of Availability of Revised Text, Adopt Proposed Commission Regulation Chapter Seven, Article 4, Sections 10720-10729, Dredging*. The subject of the 15-Day Notice were all the revisions to the proposed regulations since circulation of the original May 19, 2000 proposed LTMS regulations regarding the process and circumstances under which the Commission could adopt a program of mandatory in-Bay disposal allocations.

Final Staff Recommended Changes to the Bay Plan and the Commission's Regulations

The staff recommends that the Commission amend the Bay Plan and the Commission's implementing regulations as shown in the attached Resolution 00-08 (Appendix A) and the attached final text of the Commission's regulations Sections 10720-10729 (Appendix B) (added text underlined, and deleted (existing) text ~~struck-through~~.¹

The final staff recommendation reflects changes made to the staff's preliminary recommendations discussed above, based on the written comments and public testimony received in response to the Commission's public hearings on August 3, 2000, August 17, 2000, September 21, 2000, November 2, 2000, and November 16, 2000 (Appendix C). Further revisions to the Bay Plan Amendment 3-00 and the related regulation changes that have not previously been discussed in the above-referenced staff reports and preliminary recommendations (dated June 9, 2000, August 22, 2000, and September 29, 2000) are discussed below:

Final revisions to the Bay Plan Dredging Findings and Policies. Staff is recommending several changes to the proposed Bay Plan findings and policies presented in the preliminary staff recommendations, in response to comments and to improve clarity of the findings, policies, and Bay Plan maps. The following ~~struck-through~~ and underlined language reflects the changes from the September 29, 2000 staff report and preliminary recommendation.

¹ Because they are so integrally related, this staff recommendation discusses the proposed regulations, but the Commission will vote on the regulations as a separately-agendized matter.

Dredging Finding h. Staff has revised the proposed finding to further state the importance to the Bay of the diked baylands, including references to the Commission's *Diked Historic Baylands* report and the *San Francisco Bay Area Wetlands Ecosystem Goals* project. Although the diked baylands lie largely outside of its permit jurisdiction, much of the dredged material that will not be disposed in the Bay will be used in the diked baylands.

Dredging Finding (h): In the past, only small amounts of dredged material have been disposed of at upland and diked baylands around the Bay. Fortunately, more reuse options are becoming available for dredged material disposal. These sites include the Hamilton Wetlands Project in Marin County with a capacity of over 10 million cubic yards and the Montezuma Wetlands Project in Solano County with a capacity of 17 million cubic yards. Inclusion of the adjacent Bel Marin Keys parcel would likely more than double the capacity of the Hamilton project. Dredged material could be used at these sites to restore thousands of acres of wetlands. However, as identified in the Commission's Diked Historic Baylands Study and the San Francisco Bay Area Wetlands Ecosystem Goals Project diked baylands may often contain seasonal wetlands, provide the primary opportunity for enhancement of seasonal wetlands or restoration of tidal wetlands, and can provide other important habitat functions that need to be taken into account as part of dredged material reuse projects to avoid losing critical natural habitat.

Proposed Policy 3. This policy has been non-substantively revised for clarity.

Dredging Policy 3: Dredged materials should, if feasible, be reused or disposed outside the Commission's Bay and certain waterway jurisdictions. Except when reused in an approved fill project, dredged material should not be disposed in the Commission's Bay and certain waterway jurisdiction unless ~~Disposal in these areas should be authorized when disposal outside these areas Commission's Bay and certain waterway jurisdiction is infeasible and where the dredged material will not be reused in approved fill projects,~~ only when the Commission finds: (a) the volume to be disposed is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission by regulation; (b) disposal would be at a site designated by the Commission; (c) the quality of the material disposed of is consistent with the advice of the San Francisco Bay Regional Water Quality Control Board and the inter-agency Dredged Material Management Office (DMMO); and (d) the period of disposal is consistent with the advice of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

Proposed Policy 5. This policy has been revised to clarify that use of dredged material as a resource should be consistent with protection of Bay natural resources.

Dredging Policy 5: To ensure adequate capacity for necessary Bay dredging projects and to protect Bay natural resources, acceptable non-tidal disposal sites should be secured and the Deep Ocean Disposal Site should be maintained. Further, dredging projects should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources, such as creating, enhancing, or restoring tidal, seasonal and managed wetlands, creating and maintaining levees and dikes, providing cover and sealing material for sanitary landfills, and filling at approved construction sites.

Proposed Policy 6. This policy has been revised to remove the specific reference to the disposal site near Alcatraz Island in order to clarify that management of all in-Bay disposal sites is of equal importance.

Dredging Policy 6: Dredged materials disposed in the Bay and certain waterways, ~~particularly at the disposal site near Alcatraz Island disposal site,~~ should be carefully managed to ensure that the specific location, volumes, physical nature of material, and timing of disposal does not create navigational hazards, adversely affect Bay sedimentation, currents or natural resources ~~of the Bay~~, or foreclose the use of the site for projects critical to the economy of the Bay Area.

Proposed Policy 11. This policy has been revised to remove subsection 11(c) and that portion of subsection 11(b) that would have allowed the Commission to continue to approve use of minor amounts of dredged material to improve habitat in the Bay (Table 1). This change is in response to negotiations with Save San Francisco Bay Association (Save the Bay), which has continued to oppose policy language that would explicitly allow beneficial use projects in the Bay, even under the very limited conditions and restrictions proposed by staff. However, Save the Bay has agreed to support adoption of the small habitat project language as part of the proposed wetlands Bay Plan amendment scheduled for consideration by the Commission in spring 2001. Staff will include in the background report for the wetlands Bay Plan amendment further information from the Bay resource agencies regarding their analysis of the need for such projects.

The Commission directed staff at the November 16, 2000 public hearing to consult with the LTMS partners regarding this proposed course of action. All of the LTMS agencies support the need for and benefits of using dredged material for beneficial use in the Bay, subject to the reasonable controls proposed by staff, and none of the agencies are in favor of the proposed ban on use of dredged material for minor dredged material habitat projects. However, although none of the LTMS agencies, including BCDC staff, believe that there is any need on a policy or technical basis to delay adoption of the minor habitat project provision, they agree that a delay of six months to address the remaining concerns expressed by Save the Bay is acceptable.

Section 11 (b) has also been amended to clarify that the pilot project would need to be at a site designated by the Commission and consistent with any conditions of regulations pertaining to that site.

Finally, several changes have been made to correct grammatical errors: (1) Section 11 (a)(2) and Section 11(a)(4) have been amended to remove extraneous words and use consistent tense with the other subsections.

Bay Plan Maps. The staff recommends revisions to the Bay Plan Maps as proposed in the staff report and preliminary recommendation regarding Bay Plan Amendment 3-00 dated June 9, 2000. These revisions are recommended for clarification purposes only and are considered non-substantive. The following revision is as follows (added text underlined):

Bay Plan Map 2, Note 3, Sentence One: Revise to read "The Mare Island dredged material disposal ponds, which are located in historic baylands, should be retained in water-related industry priority use for dredged material disposal and used as a regional disposal and rehandling area for dredged material except the three northernmost ponds."

Other revisions to the Bay Plan Maps were made to correct spelling errors and to enhance the graphic design of the maps themselves (Appendix A, Figures 1-13)

Environmental Assessment. The June 9, 2000, August 22, 2000, and September 29, 2000 staff reports included an assessment of the potential impacts of Bay Plan Amendment No. 3-00 and changes to the Commission's regulations, as required under the Commission's functional equivalency under CEQA. The further revisions to proposed Dredging Finding h and Dredging Policies 3, 5, 6 and 11 as presented in this recommendation and the revisions to proposed Commission Regulation 10721(c) as presented in the above-referenced 15-Day Notice, mailed on November 21, 2000, would not in themselves result in significant adverse impacts on the environment for the following reasons:

The proposed Bay Plan Dredging Policies 3, 5, and 6 revisions presented in this recommendation as discussed above, either provide clarification or make minor non-substantive changes to the findings and policies regarding the process for Commission implementation of the LTMS program. Consequently, these revisions would not in themselves result in any greater adverse environmental impacts than those discussed in the previous Environmental Assessments and may result in a reduction in the potential for adverse impacts.

The further changes to proposed Policy 11 would remove the exemption for small dredged material habitat projects in the Bay. This may reduce the potential for environmental impacts from the current, or no-project alternative where the Commission has the authority to approve such projects, but has little policy guidance specific to this class of projects to help ensure that they would not result in significant adverse environmental impacts. However, the policy would also preclude potential habitat benefits from small in-Bay habitat projects that otherwise could be approved by the Commission. Further, project applicants would not be able to use minor amounts of dredged material to mitigate for the impacts to Bay habitat from proposed projects in the Bay, such as remediation of contaminated sites, sites where temporary dredged access channels are needed through areas of existing habitat, or other such projects. However, such impacts from potential projects are speculative at this time. As agreed to by staff and Save the Bay, the Commission will in the coming year consider a further Bay Plan amendment to allow at least minor habitat projects in the Bay using dredged material. If this Bay Plan amendment is adopted by the Commission, then the potential impacts resulting from a total ban will be limited to those projects that might be proposed in the interim period until new policies are approved.

The revision to Regulation 10722(c) changes the basis for Commission consideration of mandatory allocations to be more consistent with the wording discussed with interested parties and presented in the draft LTMS Management Plan and does not substantively change the regulation nor its potential environmental impacts.

These revisions would either have no substantive impact, reduce the potential for adverse impacts, or result in the potential for adverse impacts that are too speculative to evaluate at the present time. For the reasons stated above, the revisions will not change the analysis presented in the Environmental Assessment of June 9, 2000.

Management Plan

As explained in the staff report and preliminary recommendation dated June 9, 2000, the *LTMS Management Plan* will serve as a coordination document for the LTMS agencies. It will contain, among other things, the dredging policies and regulations adopted by the Commission and the San Francisco Bay Regional Water Quality Control Board. However, it will not include enforceable Commission policies or regulations separate from those already adopted by the Commission nor will it be adopted as a part of the Bay Plan.

The Commission will vote as a separately-agendized item on whether to authorize the Executive Director and the Chairman to sign the Management Plan as members, respectively, of the LTMS Executive and Management Committees.

Response to Comments

The Commission staff has received public comments on: (1) the staff report and preliminary recommendation (and accompanying materials) regarding the proposed Bay Plan Amendment 3-00 and related changes to the Commission's regulations dated June 9, 2000; (2) the revised staff report and preliminary recommendation dated August 22, 2000; (3) the revised staff report and preliminary recommendation dated September 29, 2000 and (4) the draft LTMS Management Plan dated June 9, 2000. The attached *Long Term Management Strategy: Response to Comments (Volume II)* contains these public comments, as well as the Commission and LTMS agencies staff's response to each of these comments (see Appendix C).

Table 1
Policy 11 Changes

Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
<u>A project that uses dredged material to create, restore or enhance Bay natural resources should be approved only if:</u>	A project that uses dredged material to create, restore or enhance Bay natural resources should be approved only if:	<u>a. A project that uses dredged material to create, restore, or enhance Bay natural resources should be approved only if:</u>	(a) A project that uses dredged material to create, restore, or enhance Bay natural resources should be approved only if:	No change.
<u>(a) The Commission determines, based on detailed site-specific technical studies appropriate to the size and potential impacts of the project and consistent with the advice of the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service, that: (1) the project would, in relationship to the project size, substantially improve habitat for Bay species; (2) no feasible alternatives to the fill exist to achieve the project purpose with fewer adverse impacts to Bay resources; (3) the amount of dredged material to be used is the minimum amount necessary to achieve the purpose of the project;</u>	(a) The Commission determines, based on detailed site-specific technical studies appropriate to the size and potential impacts of the project and consistent with the advice of the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service , that: (1) the project would <u>provide</u> , in relationship to the project size, a substantially net improvement in habitat for Bay species; (2) no feasible alternatives to the fill exist to achieve the project purpose with fewer adverse impacts to Bay resources; (3) the amount of dredged material to be used is the minimum amount necessary to achieve the purpose of the project;	(a) (1) The Commission determines , based on detailed site-specific technical studies, appropriate to the size and potential impacts of the project that include, but are not limited to, site morphology and physical conditions, biological considerations, the potential for fostering invasive species, dredged material stability, and engineering aspects of the project, <u>determines all of the following:</u> (i) the project would provide, in relationship to the project size, a substantial net improvement in habitat for Bay species;	(1) The Commission, based on detailed site-specific studies, appropriate to the size and potential impacts of the project, that include, but are not limited to, site morphology and physical conditions, biological considerations, the potential for fostering invasive species, dredged material stability, and engineering aspects of the project, determines all of the following: (i) the project would provide, in relationship to the project size, a substantial net improvement in habitat for Bay species; (ii) no feasible alternatives to the fill exist to achieve the project purpose with fewer adverse impacts to Bay resources;	Clarify that project should provide a <i>net</i> substantial habitat benefit that takes into account any habitat lost as part of the proposed project. Clarify that no adverse impacts should remain after any required mitigation. Specify key information that should be provided by applicant in technical studies; however, the list is not intended to be comprehensive or to limit information that would need to be provided by the applicant.

Table 1
Policy 11 Changes

Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
<p><u>(4) beneficial uses of the Bay and Bay water quality will be protected; and</u></p> <p><u>(5) there is a high probability that the project will be successful and not result in significant environmental harm.</u></p>	<p>(4) beneficial uses of the Bay and Bay water quality will be protected; and</p> <p>(5) there is a high probability that the project will be successful and not result in significant unmitigated environmental harm. <u>Site-specific studies should include, but not be limited to, site morphology and physical conditions, biological considerations such as potential for introducing invasive species, and engineering aspects of the project such as ensuring dredged material stability.</u></p>	<p>(ii) no feasible alternatives to the fill exist to achieve the project purpose with fewer adverse impacts to Bay resources;</p> <p>(iii) the amount of dredged material to be used is <u>would be</u> the minimum amount necessary to achieve the purpose of the project;</p> <p>(iv) beneficial uses of the Bay and Bay water quality of the Bay will <u>beneficial uses of the Bay and Bay water quality of the Bay will</u> be protected; and</p> <p>(v) there is a high probability that the project will <u>would be</u> successful and not result in unmitigated environmental harm.</p> <p>Site-specific studies should include, but not be limited to, site morphology and physical conditions, biological considerations, such as the potential for introducing invasive species, and engineering aspects of the project, such as ensuring dredged material stability.</p>	<p>(iii) the amount of dredged material to be used would be the minimum amount necessary to achieve the purpose of the project;</p> <p><u>(iv)</u> beneficial uses and water quality of the Bay would be protected; and</p> <p><u>(v)</u> there is a high probability that the project would be successful and not result in unmitigated environmental harm;</p>	<p>(See previous page)</p>

Table 1
Policy 11 Changes

Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
<u>(b) The project includes an adequate monitoring and management plan and has been carefully planned, and the Commission has established measurable performance objectives and controls that will ensure the success and permanence of the project.</u>	(b) The project includes an adequate monitoring and management plan and has been carefully planned, and the Commission has established measurable performance objectives and controls that will ensure the success and permanence of the project, <u>and an agency or organization has been identified that has the institutional capacity and interest to manage the site for the life of the project or any fill.</u>	(b) (2) (2) The project includes an adequate monitoring and management plan and has been carefully planned, and the Commission has established measurable performance objectives and controls that will <u>would help</u> ensure the success and permanence of the project, and an agency or organization has been identified that has the institutional capacity and interest with fish and wildlife management expertise and that agency has expressed to the Commission its intention to manage and operate the site for <u>habitat enhancement or restoration purposes</u> for the life of the project or any fill.	(2) The project includes an adequate monitoring and management plan and has been carefully planned, and the Commission has established measurable performance objectives and controls that would help ensure the success and permanence of the project, and an agency or organization with fish and wildlife management expertise and that agency has expressed to the Commission its intention to manage and operate the site for habitat enhancement or restoration purposes for the life of the project.;	Modified to require that, at the time the Commission is considering the application, an agency with fish and wildlife management expertise will have stated its intention to manage the site.

Table 1
Policy 11 Changes

Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
<u>(c)The project is either a small pilot project or the success of similar projects has been demonstrated in similar environmental settings.</u>	(c) The project is either a small pilot project or the success of similar projects has been demonstrated in similar environmental settings.	(c) (3)The project is either a small pilot project or the success of similar projects has been demonstrated in similar environmental settings;	(3) The project is either a small pilot project or the success of similar projects has been demonstrated in similar settings;	Minor editorial changes.
<u>(d) The project will use only clean material suitable for aquatic disposal and will not result in a net loss of Bay surface area or volume.</u>	(d) The project will, <u>pursuant to the advice of the San Francisco Bay Regional Water Quality Control Board and the Dredged Material Management Office,</u> use only clean material suitable for aquatic disposal and will not result in a net loss of Bay surface area or volume. <u>Any offsetting fill removal should be at or as near as is feasible to the habitat fill site.</u>	(d) (4) The project will, <u>pursuant to the advice of the San Francisco Bay Regional Water Quality Control Board and the Dredged Material Management Office would</u> use only clean material suitable for aquatic disposal and will would not result in a net loss of Bay surface area or volume. Any offsetting fill removal should be at or near as is feasible to the habitat fill site. <u>The Commission should solicit the advice of the San Francisco Bay Regional Water Quality Control Board, the Dredged Material Management Office and other appropriate agencies on the suitability of the dredged material.</u>	(4) The project would use only clean material suitable for aquatic disposal and would not result in a net loss of Bay surface area or volume. Any offsetting fill removal should be at or near as is feasible to the habitat fill site. <u>The Commission should has solicited the advice of the San Francisco Bay Regional Water Quality Control Board, the Dredged Material Management Office and other appropriate agencies on the suitability of the dredged material.;</u> (5) <u>The project would not result in a net loss of Bay surface area or volume. Any offsetting fill removal should would be at or near as is feasible to the habitat fill site.</u>	Clarify the role of the Regional Board and DMMO in evaluating the suitability of the dredged material. Specify that, similar to Commission's mitigation policy, if fill is removed to prevent a net loss of Bay surface area or volume, that the removal will be as near to the project site as possible.

Table 1
Policy 11 Changes

Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
<p><u>(e) Fill will not be placed in areas with particularly high existing natural resource values, such as eelgrass beds and tidal marsh and mudflats, unless the fill is needed to protect or enhance the habitat. Dredged materials should only be used to create artificial islands in the Bay if competent studies demonstrate that these fill islands would have no harmful effect on Bay natural resources.</u></p>	<p>(e) Fill will not be placed in areas with particularly high or rare existing natural resource values, such as eelgrass beds and tidal marsh and mudflats, unless the fill is needed to protect or enhance the habitat. <u>The habitat project will not, by itself or cumulatively with other projects, significantly decrease the overall amount of any particular habitat within Suisun, North, South, or Central Bays, excluding areas which have been recently dredged</u></p>	<p>(e) (5) Dredged material fill <u>will</u> would not be placed in areas with particularly high or rare existing natural resource values, such as eelgrass beds and tidal marsh and mudflats, unless the fill <u>material would</u> is be needed to protect or enhance the habitat. The habitat project will <u>would</u> not, by itself or cumulatively with other projects, significantly decrease the overall amount of any particular habitat within the Suisun, North, South, or Central Bays, excluding areas which <u>that</u> have been recently dredged.</p>	<p>(5) Dredged material would not be placed in areas with particularly high or rare existing natural resource values, such as eelgrass beds and tidal marsh and mudflats, unless the material would be needed to protect or enhance the habitat. The habitat project would not, by itself or cumulatively with other projects, significantly decrease the overall amount of any particular habitat within the Suisun, North, South, or Central Bays, excluding areas that have been recently dredged.</p>	<p>Clarify that areas of rare habitat should be afforded the same protection as areas of high natural resource values.</p> <p>Prevent a significant reduction in any Bay habitat type in order to prevent cumulative impacts. This analysis would not include those changes occurring through natural Bay processes nor would it include projects sited in areas which have been recently dredged.</p>

Table 1
Policy 11 Changes

Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
<p><u>(f) If, after a reasonable period of monitoring, either (a) the fill project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or (b) the fill is found to have substantial adverse impacts on the natural resources of the Bay, the fill will be removed and the site returned to the conditions existing immediately preceding placement of the fill, unless it is demonstrated by competent environmental studies that removing the fill would have a greater adverse effect on the Bay than allowing it to remain.</u></p>	<p>(f) If, after a reasonable period of monitoring, either (a) the fill project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or (b) the fill is found to have substantial adverse impacts on the natural resources of the Bay, the fill will be removed and the site returned to the conditions existing immediately preceding placement of the fill, unless it is demonstrated by competent environmental studies that removing the fill would have a greater adverse effect on the Bay than allowing it to remain.</p>	<p>(f) (6) The dredged material would be removed. If, after a reasonable period of monitoring, either (a) the fill project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or (b) the fill is found to have substantial adverse impacts on the natural resources of the Bay, the fill will be removed and the site returned to the conditions existing immediately preceding placement of the fill, unless it is demonstrated by competent environmental studies that removing the material fill would have a greater adverse effect on the Bay than allowing it to remain, and the site would be returned to the conditions existing immediately preceding placement of the dredged material if, after a reasonable period of monitoring, either:</p>	<p>(6) After a reasonable period of monitoring, either:</p> <p>(i) the project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or</p> <p>(ii) the dredged material is found to have substantial adverse impacts on the natural resources of the Bay; and, if the dredged material would be removed, unless it is demonstrated by competent environmental studies that removing the material would have a greater adverse effect on the Bay than allowing it to remain, and the site would be returned to the conditions existing immediately preceding placement of the dredged material if, after a reasonable period of monitoring, either:</p> <p>(i) the project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or</p> <p>(ii) the dredged material is found to have substantial adverse impacts on the natural resources of the Bay; and</p>	<p>Minor editorial changes.</p>

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	<p><u>(g) A public agency with expertise in the types of habitat proposed to be enhanced (i.e., either the California Department of Fish and Game, the National Marine Fisheries Service, or the U.S. Fish and Wildlife Service) supports the proposed project and the timing of disposal is consistent with the advice of these agencies.</u></p>	<p><u>(i) the project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or</u></p> <p><u>(ii) the dredged material is found to have substantial adverse impacts on the natural resources of the Bay;</u></p> <p>(g) (7) The Commission has consulted with the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service to ensure that at least one of these agencies supports the proposed project. A public agency with expertise in the types of habitat proposed to be enhanced (i.e., either the California Department of Fish and Game, the National Marine Fisheries Service, or the U.S. Fish and Wildlife Service) supports the proposed project and the timing of disposal is consistent with the advice of these agencies.</p>	<p>(7) The Commission has consulted with the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service to ensure that at least one of these agencies supports the proposed project.</p>	<p>Ensure that the Commission consult with all of the Bay resource agencies and that at least one of them actively supports the project.</p>

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Staff Report and Preliminary Recommendation June 6, 2000	Revised Staff Report and Preliminary Recommendation August 22, 2000	Revised Staff Report and Preliminary Recommendation September 29, 2000	Final Staff Recommendation December 1, 2000	Changes from June 9 th preliminary recommendation to final staff recommendation
		<u>b. To ensure protection of Bay habitats, the Commission should not authorize dredged material disposal projects in the Bay and certain waterways for habitat creation, enhancement or restoration other than minor fill, with the exception of a single pilot project until:</u>	(b) To ensure protection of Bay habitats, the Commission should not authorize dredged material disposal projects in the Bay and certain waterways for habitat creation, enhancement or restoration other than minor fill , with the exception of a single pilot project <u>at a site designated by the Commission and used in a manner consistent with the regulation designating the site until:</u>	Notwithstanding the requirements of Subsection 11(a) language, habitat projects in the Bay using dredged material would be limited to a single pilot project pending completion of the actions discussed below. (Also, see discussion in Subsection 11(c) below.)
		<u>(1) The Bay Plan Marshes and Mudflats and Fish and Wildlife policies have been updated and any additional objective and scientific studies have been carried out to evaluate the advisability of disposal of dredged material in the Bay and certain waterways for habitat creation, enhancement and restoration. Those additional studies should address the following:</u> <u>(i) The Baywide need for in-Bay habitat creation, enhancement and restoration, in the context of maintaining appropriate amounts of all habitat types within the Bay, especially for support and recovery of endangered species.</u>	(1) The Bay Plan Marshes and Mudflats and Fish and Wildlife policies have been updated and any additional objective and scientific studies have been carried out to evaluate the advisability of disposal of dredged material in the Bay and certain waterways for habitat creation, enhancement and restoration. Those additional studies should address the following: (i) The Baywide need for in-Bay habitat creation, enhancement and restoration, in the context of maintaining appropriate amounts of all habitat types within the, especially for support and recovery of endangered species;	The studies should be based on available scientific information and knowledge regarding the Bay and the use of Bay habitats by resident and migratory organisms. It is doubtful that the same level of information will be available as that which was used for the Regional Wetlands Habitat Goals Project. It is unclear the level of detail, particularly in regards to individual locations, a Baywide analysis of in-Bay habitat would need to or be able to achieve. The information and analysis will most likely be used to for establishing narrative policies to augment or replace existing Policy 11.

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		<p><u>(ii) The need to use dredged materials to improve Bay habitat, the appropriate characteristics of locations in the Bay for such projects, and the potential short-term and cumulative impacts of such projects; and</u></p> <p><u>(2) The Commission has adopted additional Baywide policies governing disposal of dredged material in the Bay and certain waterways for the creation, enhancement and restoration of Bay habitat, which narratively establish the necessary biological, hydrological, physical and locational characteristics of candidate sites; and</u></p> <p><u>(3) The pilot project authorized under this section, if undertaken, is completed successfully.</u></p>	<p>(ii) The need to use dredged materials to improve Bay habitat, the appropriate characteristics of locations in the Bay for such projects, the potential short-term and cumulative impacts of such projects; and</p> <p>(2) The Commission has adopted additional Baywide policies governing disposal of dredged material in the Bay and certain waterways for the creation, enhancement and restoration of Bay habitat, which narratively establish the necessary biological, hydrological, physical and locational characteristics of candidate sites; and</p> <p>(3) The pilot project authorized under this section, if undertaken, is completed successfully.</p>	<p>The pilot project will likely take years to construct and monitor before the Commission can determine whether the performance criteria established for the project have been met successfully.</p>
		<p><u>c. During the study period specified in Section (b) (1) and until the policies specified in Section 11(b) (2) are adopted the Commission may continue to approve the placement of minor amounts of dredged material for habitat enhancement projects such as:</u></p>	<p>(e) During the study period specified in Section (b) (1) and until the policies specified in Section 11(b) (2) are adopted, the Commission may continue to approve the placement of minor amounts of dredged material for habitat enhancement projects such as:</p>	<p>This section has been deleted after negotiations with Save the Bay Association representatives. However, as agreed to by all parties, the policy will be reintroduced as part of the Commission's wetlands Bay Plan amendment this coming year, along with supporting</p>

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		<p><u>(1) Part of a remediation or removal action to restore the configuration of the Bay to an elevation or to restore in-Bay habitat to a condition existing prior to work pursuant to a Commission permit approved by the Commission or the Executive Director; or</u></p> <p><u>(2) Part of a permit for work and necessary to accomplish, restore, remediate or mitigate an action of that permit; or</u></p> <p><u>(3) An in-Bay habitat project sponsored by a fish and wildlife resource agency, a park or open space district or the state Coastal Conservancy; or</u></p> <p><u>(4) A project to provide habitat benefits as part of a shoreline protection project; or</u></p> <p><u>(5) Part of a wetlands restoration project.</u></p>	<p>(1) Part of a remediation or removal action to restore the configuration of the Bay to an elevation or to restore in-Bay habitat to a condition existing prior to remediation work authorized by a permit approved by the Commission or the Executive Director; or</p> <p>(2) Part of a permit for work and necessary to accomplish, restore, remediate or mitigate an action of that permit; or</p> <p>(3) An in-Bay habitat project sponsored by a fish and wildlife resource agency, a park or open space district or the State Coastal Conservancy; or</p> <p>(4) A project to provide habitat benefits as part of a shoreline protection project; or</p> <p>(5) Part of a wetlands restoration project;</p>	information from the Bay resource agencies regarding the need for such projects.

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSIONFifty California Street • Suite 2600 • San Francisco, California 94111 • (415) 352-3600 • FAX: (415) 352-3606 • <http://www.bcdc.ca.gov>

Resolution No. 00-08

Adoption of Bay Plan Amendment No. 3-00

Dredging and Dredged Material Disposal and Beneficial Reuse

Whereas, Government Code Section 66652 states that “the Commission at any time may amend, repeal and adopt a new form of, all or part of the San Francisco Bay Plan” and that “such changes shall be consistent with findings and declarations of policy” contained in the McAteer-Petris Act; and

Whereas, Government Code Section 66602, provides, in part, that certain water-oriented land uses (including water-related industries, upland dredged material disposal sites, etc.) are essential to the public welfare of the Bay Area, and that the Bay Plan should make provision for adequate and suitable locations for all these uses, thereby minimizing the necessity for future Bay fill to create new sites for these uses; and

Whereas, Government Code Section 66611, provides, in part, that the Commission shall adopt and file with the Governor and the Legislature a resolution fixing and establishing within the shoreline band the boundaries of the water-oriented priority land uses, as referred to in Government Code Section 66602, and further that the Commission may change such boundaries in the manner provided by Section 66652 for the *San Francisco Bay Plan* (Bay Plan) maps; and

Whereas, in 1990, the Long Term Management Strategy (LTMS) was created jointly by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the San Francisco Bay Regional Water Quality Control Board, the State Water Resources Control Board, and the San Francisco Bay Conservation and Development Commission (Commission) with participation by representatives from the dredging, fishing, environmental, and scientific communities, in order to address problems associated with dredging and dredged material disposal in the San Francisco Bay Area, including limited in-Bay disposal site capacity, potential environmental impacts of in-Bay disposal, limited beneficial reuse options, and differing policies and procedures of the agencies regulating Bay dredging and disposal activities; and

Whereas, in 1991, the state Legislature passed the San Francisco Bay Dredging Act which funded and established the Commission’s goals and objectives for the Commission’s involvement in the LTMS and for the beneficial reuse of dredged material; and

Whereas, in 1992, the Commission amended on an interim basis, pending completion of the LTMS, the Bay Plan dredging findings and policies to be consistent with the findings and declarations of policy contained in the McAteer-Petris Act as required by Government Code 66652 in that the changes addressed the limited capacity of existing in-Bay disposal sites and the potential adverse impacts of dredging and disposal activities on the Bay’s natural resources, allowed for the disposal of materials dredged from the Bay, strongly encouraged beneficial reuse of dredged material, and provided for the maintenance of depths safe for maritime commerce and other vessels, including recreational boats; and

Whereas, starting in 1990, a series of LTMS technical studies were conducted to evaluate disposal options in the ocean, the impacts of in-Bay disposal, and the potential for beneficial reuse of dredged material in the Bay Area. In addition to the technical studies, several demonstration projects were carried out in the region in which dredged

material was used to restore wetlands, bolster levees, and as cover material at landfills. These technical studies and demonstration projects resulted in the federal designation of a deep ocean disposal site, an improved understanding of potential in-Bay disposal impacts and mechanisms for reducing these impacts, and the determination that beneficial reuse of dredged material is feasible in the Bay Area. The LTMS technical studies and demonstration projects became the basis for framing and considering alternative management strategies, as well as for choosing the long term dredging and disposal strategy for the region; and

Whereas, in October, 1998, the Final Policy Environmental Impact Statement (EIS), per the National Environmental Policy Act, and Programmatic Environmental Impact Report (EIR), per the California Environmental Quality Act (CEQA), was issued for the LTMS program, which identified the preferred dredging and dredged material disposal management strategy for the region. This strategy will decrease existing levels of dredged material disposal at the designated in-Bay sites, and increase material taken to beneficial reuse sites and the federally-designated deep ocean disposal site, and includes “policy-level mitigation measures” to ensure environmental protection regardless of dredged material disposal location. The new dredging and disposal management strategy was selected by: (1) a federal Record of Decision for the Final Policy EIS for the LTMS, by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency in July, 1999; and (2) the certification of the Final Programmatic EIR for the LTMS, by the State Water Resources Control Board in October, 1999; and

Whereas, the LTMS agencies recognized that full implementation of the new management strategy would significantly decrease current in-Bay disposal volumes, and that larger-scale beneficial reuse sites would be needed and would take time to implement. Therefore, have proposed policies that provide for the gradual decrease of in-Bay disposal of dredged material in order to reduce economic dislocations to dredgers and allow arrangements to be made for implementation of new beneficial reuse sites; and

Whereas, better information regarding the impacts of dredging and dredged material disposal on in-Bay, ocean, and beneficial reuse environments was collected and analyzed through the LTMS and the new strategy for managing dredging and disposal activities has been selected since the Bay Plan dredging findings and policies were last modified on an interim basis in 1992; and

Whereas, on May 18, 2000, the Commission approved a Descriptive Notice of the proposed amendment of the Bay Plan findings and policies related to dredging and dredged material disposal, set a public hearing date for July 6, 2000, and on May 19, 2000, mailed the Descriptive Notice to all agencies, organizations, and individuals interested in the proposed amendment all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, and 11002; and

Whereas, on June 23, 2000, the Commission mailed a notice to reschedule the public hearing on the proposed amendment to the Bay Plan findings and policies to July 20, 2000, and, on July 7, 2000 and July 21, 2000, mailed a subsequent notice to reschedule the public hearing to August 3, 2000, to all agencies, organizations, and individuals interested in the proposed amendment all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, and 11002; and

Whereas, on June 9, 2000, the Commission distributed the staff report and preliminary recommendation and other materials regarding the proposed Bay Plan Amendment (including the Draft *LTMS Management Plan*, and the *CEQA-equivalent document on the Proposed Amendment to the San Francisco Bay Plan for Using Dredging Material for Bay Habitat Projects*), and, on June 23, 2000, distributed an errata sheet related to the staff report and preliminary recommendation to all agencies, organizations, and individuals interested in the proposed amendment, all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, and 11003.

Whereas, because the proposed policies and findings adopted herein are an amendment to the Bay Plan and thus need to meet the requirements of the McAteer-Petris Act and the Commission's standards for environmental review an environmental assessment was prepared and mailed on June 9, 2000 along with the staff report and preliminary recommendation. This environmental assessment was prepared in conformance with the Commission's regulations (California Code of Regulations (CCR), Title 14, Natural Resources, Division 5, San Francisco Bay Conservation and Development Commission, Vol. 19., Chapter 7 (Article 4, Section 11511-11521), which have been certified by the Secretary of State as functionally equivalent to CEQA, and found that the proposed Bay Plan amendment would result in a net environmental benefit through reduced in-Bay disposal and more beneficial reuse; and

Whereas, on August 3, 2000, and on August 17, 2000, the Commission held public hearings on the proposed Bay Plan amendment to receive public comments on the staff report, preliminary recommendation, environmental assessment and other related materials, all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, 11003, and 11004; and

Whereas, through August 22, 2000, the Commission received public comments on the staff report, preliminary recommendation, environmental assessment and other related materials regarding the proposed Bay Plan amendment, all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, 11003, and 11004. A majority of the comments received pertained to whether the proposed Bay Plan policy and findings regarding the restoration of in-Bay habitat using dredged material would sufficiently protect Bay resources;

Whereas, the staff report and preliminary recommendation were revised to provide greater assurance that Bay resources would be adequately protected in implementing in-Bay habitat restoration projects and distributed by the Commission on August 22, 2000, to all agencies, organizations, and individuals interested in the proposed Bay Plan amendment all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, 11003, and 11004; and

Whereas, on September 21, 2000, the Commission held a public hearing on the revised staff report and preliminary recommendation regarding the proposed Bay Plan amendment, and in response to public comments primarily regarding the proposed Bay Plan policies pertaining to the beneficial use of dredged material for habitat in the Bay and implementation of the allocation system for in-Bay disposal of dredged material, on September 29, 2000, distributed a revised staff report and preliminary

recommendation as well as a revised *CEQA-equivalent document on the Proposed Amendment to the San Francisco Bay Plan for Using Dredging Material for Bay Habitat Projects*, all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, 11003, and 11004; and

Whereas, on November 2, 2000, and on November 16, 2000, the Commission held public hearings on the revised staff report and preliminary recommendation and received comments primarily regarding the proposed Bay Plan policies pertaining to the beneficial reuse of dredged material for habitat use in the Bay and implementation of the allocation system for in-Bay disposal of dredged material, and at the conclusion of the public's comments closed the public hearing on November 16, 2000, all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, 11003, and 11004;

Whereas, prior to the November 16, 2000 public hearing, Commission staff negotiated with members of the environmental community on their concerns regarding in-Bay habitat use of dredged material and reached agreement to defer until the Commission considers the wetlands Bay Plan amendment scheduled for the Spring of 2001 Commission consideration of a policy that would exempt minor in-Bay habitat projects from the policy that allows only a single pilot project; and

Whereas, on December 1, 2000, the Commission mailed the Executive Director's final recommendation regarding the proposed Bay Plan amendments to all members of the Commission and their alternates and to other agencies, organizations, and individuals interested in the proposed amendment, all in accord with the requirements and procedures set out in Government Code Section 66652 and California Code of Regulations Sections 11000, 11001, 11002, 11003, 11004, and 11005; and

Whereas, the amendments to the Bay Plan are consistent with the findings and declarations of policy contained in the McAteer-Petris Act as required by Government Code Section 66652 in that the proposed changes will allow for the disposal of and reuse of dredged material, maintain safe depths for maritime commerce and other vessels, including recreational boats, all in accord with the existing Bay Plan dredging policies which encourage the beneficial reuse of dredged material and the maintenance of navigation channels as required by Government Code Section 66603; and

Whereas, the Executive Director's final recommendation is not substantially different from the preliminary recommendation, and thus a new staff planning report and public hearing procedure is not required pursuant to California Administrative Code Section 11002; and

Whereas, the Commission has evaluated the environmental impact of amending the Bay Plan Dredging findings and policies, Water-Related Industry findings, Recreation Policies, Other Uses of the Shoreline policies, Bay Plan Maps and accompanying notes, and Resolution 16 under the Commission's functional equivalency regulations authorized by Public Resources Code Section 21080.5, and finds that there will be no significant adverse impacts on the environment brought about by the amendment; and

Whereas, the amendment to the Bay Plan Dredging findings and policies, Water-Related Industry findings, Recreation policies, Other Uses of the Shoreline policies, Bay Plan Maps and accompanying notes, and Resolution 16 enacted by this resolution is

intended to be a revision to the Commission's coastal management program for the San Francisco Bay segment of the California coastal zone as approved by the U.S. Department of Commerce under the federal Coastal Zone Management Act of 1972, as amended; and

Now, Therefore, Be It Resolved That, the Commission hereby approves the Environmental Assessment of Bay Plan Amendment No. 3-00, as contained in the Staff Report and Preliminary Recommendation on Proposed Bay Plan Amendment No. 3-00 dated June 9, 2000 and as amended in documents titled *Errata Sheet on Staff Report and Preliminary Recommendation on Proposed Bay Plan Amendment No. 3-00 mailed on June 23, 2000*, *Revision to Staff Report and Preliminary Recommendation on Proposed Bay Plan Amendment No. 3-00 which Would Modify the San Francisco Bay Plan, Regarding Dredging and Disposal of Dredged Material mailed on August 22, 2000*, *Revision to Staff Report and Preliminary Recommendation on Proposed Bay Plan Amendment No. 3-00 which Would Modify the San Francisco Bay Plan, Regarding Dredging and Disposal of Dredged Material*, and on *Proposed Changes to the Commission's Implementing Regulations Regarding Disposal of Dredged Material mailed on September 29, 2000*, and *Final Staff Recommendation on Proposed Bay Plan Amendment No. 3-00, Which Would Modify the San Francisco Bay Plan, Regarding Dredging and Disposal of Dredged Material, Proposed Changes to the Commission's Implementing Regulations Regarding Disposal of Dredged Material, and the LTMS Management Plan* mailed on December 1, 2000, and determines that there will be no substantial environmental impacts created by the Bay Plan amendment; and

Be It Further Resolved That, the Commission hereby adopts Bay Plan Amendment 3-00 which amends the Bay Plan findings and policies as follows, with added language underlined and deleted language ~~struck through~~:

Dredging Finding (a): Much of the Bay bottom is shallow. ~~It averages~~ It averages 20 feet in depth, ~~and the bottom is covered with accumulated sediment-silt, sand, and clay. An estimated eight million cubic yards of sediment is carried into the Bay annually in tributary waterway flows from tributaries, most of it settling to the Bay bottom. In addition, over 100 million cubic yards of sediment-inflowing and resuspended-is recirculated in Bay waters each year, some of which lodges in harbors and navigable channels from which it must be dredged at considerable cost.~~

Dredging Findings

Finding (b): Dredging consists of excavating or extracting materials from the Bay. Dredging is often necessary to provide and maintain safe navigation channels and harbors for port facilities, water-related industries, and recreational boating, and for flood control channels. Dredging of unstable Bay muds may also be needed to accommodate Bay fill projects. Dredging projects remove existing bottom habitat and can disrupt surrounding areas through turbidity and other impacts.

Finding (c): ~~Past and present~~ Some waste disposal practices have ~~resulted in the introduction of deposited~~ pollutants into the Bay, some of which have ~~degraded~~ contaminated Bay sediments. These pollutants are not distributed evenly in the

Bay and ~~localized~~ some areas are highly contaminated. Dredging and subsequent ~~aquatic~~ disposal of contaminated sediments in the Bay ~~can~~ may adversely resuspend and redistribute pollutants in the water column, making them accessible to affect Bay organisms, and result in possible adverse impacts on natural resources of the Bay.

Finding (d): ~~In the past, m~~Material dredged from the Bay ~~has historically been~~ was disposed of ~~aquatically in~~ throughout the Bay. In more recent times, most ~~aquatic~~ disposal has occurred at one of four Bay disposal sites designated by the U.S. Army Corps of Engineers designated disposal sites, the Regional Board, and the Commission where the material ~~is expected to~~ can disperse ~~and the maximum amount would be carried out the Golden Gate on the ebb tides and cause as few the least~~ environmental impacts as possible. These sites are: (1) off Alcatraz Island; (2) in San Pablo Bay; (3) in the Carquinez Strait; and (4) in the Suisun Bay Channel. ~~But even at~~ At the site nearest the ocean, ~~off~~ next to Alcatraz Island, less than half of the disposed material is carried out to sea by the tides.

Finding (e): Capacity at the ~~Alcatraz island~~ disposal site near Alcatraz Island is limited because ~~over years of use~~ a large mound of dredged material has formed which, unless ~~future~~ disposal is properly managed, may adversely affect water circulation and Bay aquatic life, ~~and~~ pose a hazard to maritime navigation, ~~and completely fill the site. The impact of dredged material disposal on Bay natural resources, which are also impacted by a variety of sources, remains controversial.~~

Finding (f): ~~Alternate locations to Bay aquatic disposal include non-tidal upland and ocean sites. Only small amounts of material have been disposed in non-tidal sites historically. Additional non-tidal sites with increased capacity should be available for dredged material disposal projects in early 1993, and ocean disposal sites are expected to be available for use in early 1994. Some non-tidal upland sites may be categorized as waters of the United States pursuant to federal law.~~

In 1994, the U.S. Environmental Protection Agency designated the "Deep Ocean Disposal Site," which is fifty miles outside of the Golden Gate. The EPA manages the site and has set a yearly capacity of 4.8 million cubic yards of dredged material.

Finding (g): ~~Certain~~ Most dredged material can be reused ~~beneficially~~ rather than treated as a waste. The material can be used to bolster levees and dikes, to create and restore ~~tidal~~ marshes and ~~managed~~ wetlands, to cover and seal sanitary landfills, and as fill in construction projects.

Finding (h): In the past, only small amounts of dredged material have been disposed at upland and diked baylands around the Bay. Fortunately, more reuse options are becoming available for dredged material disposal. These sites include Hamilton Wetlands Project in Marin County with a capacity of over 10 million cubic yards and the Montezuma Wetlands Project in Solano County with a capacity of 17 million cubic yards. Inclusion of the adjacent Bel Marin Keys parcel would likely more than double the capacity of the Hamilton project. Dredged material could be used at these sites to restore thousands of acres of wetlands. However, as identified in the Commission's Diked Historic Baylands Study and the San Francisco Bay Area Wetlands Ecosystem Goals Project diked baylands

often contain seasonal wetlands, provide the primary opportunity for enhancement of seasonal wetlands or restoration of tidal wetlands, and can provide other important habitat functions that need to be taken into account as part of dredged material reuse projects to avoid losing critical natural habitat. Dredged material disposed at sea could return to the Bay with tidal currents or could cause damage to marine organisms or beach sites. These conditions are capable of being analyzed prior to disposal at sea.

Finding (i): Shoreline facilities are needed to dry and prepare dredged material for some upland uses. These sites are particularly important for material with levels of contaminants that cannot be disposed in the Bay, but can be used as capping, lining and cover in solid waste landfills.

Finding (j): A variety of habitat types within the Bay sustain a multitude of plant, fish, and wildlife species. Many factors determine the habitat functions and values of a given area of the Bay, including water depth and clarity, type of substrate (rock, coarse sand, or fine-grained sand), type of vegetation, and salinity.

Finding (k): Each of the fish and wildlife species found in the Bay has particular habitat needs to forage, rest, take refuge, and reproduce. Although the San Francisco Bay Area Wetlands Ecosystem Goals Project comprehensively studied the baylands and made recommendations for the extent and location of wetlands and related habitats, no such study has been performed of the need for or appropriate mix of habitat types in the waters of the Bay.

Finding (l): Eelgrass beds are considered to be a valuable shallow water habitat, providing feeding, escape, or breeding habitat for many species of invertebrates, fishes, and some waterfowl. Eelgrass grows in relatively few locations in the Bay and requires special conditions to flourish. Cultivating eelgrass is difficult and efforts to grow eelgrass in San Francisco Bay have not succeeded.

Finding (m): Under its existing law and policies the Commission has approved minor amounts of Bay fill to create, restore or enhance habitat in the Bay. The selective deposition of dredged materials in the Bay to extensively modify Bay habitats might enhance the habitat value for some Bay species. However, such projects could also result in significant adverse impacts to Bay water circulation and quality and to Bay habitats and organisms that depend on the Bay. Insufficient information exists about the potential benefits and adverse impacts on which to base Baywide policies governing disposal in the Bay of dredged material that would result in large-scale modification of Bay habitats, either through an individual project or cumulatively with other projects.

Finding (n): Baywide studies would help determine the need for, appropriate locations for, and potential effects of in-Bay disposal for eelgrass or other shallow water habitat enhancement or restoration. The Commission's update of the Bay Plan Marshes and Mudflats and Fish and Wildlife policies will, to the extent scientific information exists, characterize the location, nature and types of Bay subtidal habitat, will characterize their value and functions, and will characterize the threats to the habitats. A pilot project could help to determine the feasibility of eelgrass or other shallow water habitat enhancement or restoration in the Bay.

Finding (o): The San Francisco Bay Regional Water Quality Control Board and the U.S. Environmental Protection Agency are responsible for determining appropriate dredged material pollutant testing and discharge standards and for assuring that dredging and the disposal of dredged materials are consistent with the maintenance of Bay water quality. The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers have joint federal responsibility for regulating ocean, Bay, and wetland disposal.

Finding (p): The California Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service are responsible for management and protection of Bay organisms, particularly threatened and endangered species.

Finding (q): The Long Term Management Strategy (LTMS) program, initiated by the U.S. Army Corps of Engineers in 1991 in partnership with the Commission, the San Francisco Bay Regional Water Quality Control Board, the State Water Resources Control Board, and the U.S. Environmental Protection Agency, with the involvement of dredgers, fishermen, environmentalists and other interested parties, has a multiple federal and state agency initiative to study comprehensively studied Bay dredging issues and prepared by 1995, a long-range Bay dredging and dredged material disposal management plan and implementation program. When completed, the LTMS is expected to provide the basis for uniform federal and state dredged material disposal policies and regulations.

Finding (r): The LTMS has set goals to reduce in-Bay disposal over the next decade to one million cubic yards or less per year and to maximize use of dredged material as a resource.

Finding (s): Using dredged material as a resource is usually more expensive than existing disposal practices. Large reuse sites can attain economies of scale and increase feasibility of dredged material reuse. Concerted efforts are needed to plan, fund and implement reuse of dredged material. The ongoing efforts by government agencies, dredgers, environmentalists and others have made great progress and should achieve the LTMS goals. However, if these efforts are not successful, in-Bay disposal may have to be restricted through regulatory controls.

Finding (t): The U.S. Army Corps of Engineers is the largest Bay dredger and has the greatest ability to implement alternative disposal options. Annually, small dredgers account for less than one quarter of a million cubic yards of material and have the least ability to implement alternatives to in-Bay disposal.

Finding (u): As part of the LTMS, a Dredged Material Management Office (DMMO) has been established to consolidate the processing of dredging permit applications by the staff of the LTMS agencies and the State Lands Commission. The DMMO provides a single application form and unified processing of applications for dredging permits.

Finding (v): Underground fresh water supplies are an important supplement to surface water now brought into the Bay Area by aqueduct from mountain reservoirs. Deep dredging of Bay mud, or excavation for tunnels or bridge piers, could strip the "cover" from the top of a fresh water reservoir under the Bay,

allowing the salt water to contaminate the fresh water, or allowing the fresh water (if artesian) to escape in large quantities and thus cause land to sink. The precise location of groundwater reservoirs under the Bay is not yet well known, however.

Finding (w): More information on Bay sediment dynamics is needed to (1) better determine the impacts of dredging and dredged material disposal projects and (2) identify long-term trends in Bay sedimentation that relate to dredging needs and potential impacts to Bay resources, such as wetland and mudflats.

Dredging Policies

Policy 1: Dredging and dredged material disposal should be conducted in an environmentally and economically sound manner. Dredgers should reduce disposal in the Bay over time to achieve the LTMS goal of limiting in-Bay disposal volumes to a maximum of one million cubic yards per year. The LTMS agencies should implement a system of disposal allotments to individual dredgers to achieve this goal only if voluntary efforts are not effective in reaching the LTMS goal. In making its decision regarding disposal allocations, the Commission should confer with the LTMS agencies and consider the need for the dredging and the dredging projects, environmental impacts, regional economic impacts, efforts by the dredging community to implement and fund alternatives to in-Bay disposal, and other relevant factors. Small dredgers should be exempted from allotments, but all dredgers should comply with policies 2 through 12.

Policy 2: Dredging should be authorized when the Commission can find: (a) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other important public purpose; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (c) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or through other appropriate measures; (d) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (e) the materials would be disposed of in accordance with Policy 23.

~~2. Disposal of dredged materials should be encouraged in non-tidal areas where the materials can be used beneficially or in the ocean. Disposal in tidal areas of the Bay should be authorized when the Commission can find that: (a) the applicant has demonstrated that non-tidal and ocean disposal is infeasible because there are no alternate sites available or likely to be available for use in a reasonable period, or the cost of disposal at alternate sites is prohibitively expensive; (b) disposal would be at a site designated by the Commission; (c) the quality and volume of the material to be disposed is consistent with the advice of the San Francisco Bay Regional Water quality Control board; and (d) the period of disposal is consistent with the advice of the Department of fish and Game and the National Marine Fisheries Service.~~

Policy 3: Dredged materials should, if feasible, be reused or disposed outside the Commission's Bay and certain waterway jurisdictions. Except when reused in an approved fill project, dredged material should not be disposed in the Commission's Bay and certain waterway jurisdiction unless disposal outside

these areas is infeasible and the Commission finds: (a) the volume to be disposed is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission by regulation; (b) disposal would be at a site designated by the Commission; (c) the quality of the material disposed of is consistent with the advice of the San Francisco Bay Regional Water Quality Control Board and the inter-agency Dredged Material Management Office (DMMO); and (d) the period of disposal is consistent with the advice of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

~~3. When the annual amount of dredged material proposed to be disposed in tidal areas of the Bay exceeds the disposal volume targets established by the Commission, in determining which projects to authorize, the Commission shall be guided by all relevant factors concerning the proposed projects, including, but not limited to, need for the dredging and the dredging project, regional economic impact, environmental impact, and other regional effects of the project, and the economic feasibility of using alternate disposal sites.~~

Policy 4: If an applicant proposes to dispose dredged material in tidal areas of the Bay and certain waterways that exceeds either disposal site limits or any disposal allocation that the Commission has adopted by regulation, the applicant must demonstrate that the potential for adverse environmental impact is insignificant and that non-tidal and ocean disposal is infeasible because there are no alternative sites available or likely to be available in a reasonable period, or because the cost of disposal at alternate sites is prohibitive. In making its decision whether to authorize such in-Bay disposal, the Commission should confer with the LTMS agencies and consider the factors listed in Policy 1.

Policy 5: To ensure adequate capacity for necessary Bay dredging projects and to protect Bay natural resources, acceptable non-tidal disposal sites should be secured and the Deep Ocean Disposal Sites designated should be maintained. Further, dredging disposal projects should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources, such as creating, enhancing, or restoring tidal and managed wetlands, creating and maintaining levees and dikes, providing cover and sealing material for sanitary landfills, and filling at approved construction sites.

~~Policy 6: Once non-tidal or ocean disposal sites have been secured or designated, and prior to completion of the LTMS, the maximum feasible amount of dredged material should be disposed at non-tidal sites or in the ocean. Until non-tidal upland disposal sites are secured and ocean disposal sites designated, aquatic disposal in the Bay should be authorized at sites designated by the U.S. Army Corps of Engineers and the Commission. Dredged materials disposed aquatically in the Bay and certain waterways, particularly at the Alcatraz Island disposal site, should be carefully managed to ensure that the specific location, volumes, physical nature of material, and amount and timing of disposal does not create navigational hazards, adversely affect Bay sedimentation, currents or natural resources of the Bay, or foreclose the use of the site by for projects critical to the economy of the Bay Area.~~

Policy 7: All proposed channels, berths, turning basins, and other dredging projects should be carefully designed so as not to undermine the stability of any adjacent dikes, fills or fish and wildlife habitats.

Policy 8. The Commission should encourage increased efforts by soil conservation districts and public works agencies in the 50,000-square-mile Bay tributary area to continuously reduce soil erosion as much as possible.

Policy 9: To protect underground fresh water reservoirs (aquifers): (a) all proposals for dredging or construction of work that could penetrate the mud "cover" should be reviewed by the San Francisco Bay Regional Water Quality Control Board and the State Department of Water Resources; and (b) dredging or construction work should not be permitted that might reasonably be expected to damage an underground water reservoir. Applicants for permission to dredge ~~should be required to~~ provide additional data on groundwater conditions in the area of construction to the extent necessary and reasonable in relation to the proposed project.

Policy 10: Interested agencies and parties are encouraged to explore and find funding solutions for the additional costs incurred by transporting dredged materials to nontidal ~~upland~~ and ocean disposal sites, either by general funds contributed by ports and other relevant parties, dredging applicants or otherwise.

Policy 11:

(a) A project that uses dredged material to create, restore, or enhance Bay natural resources should be approved only if:

(1) The Commission, based on detailed site-specific studies, appropriate to the size and potential impacts of the project, that include, but are not limited to, site morphology and physical conditions, biological considerations, the potential for fostering invasive species, dredged material stability, and engineering aspects of the project, determines all of the following:

(i) the project would provide, in relationship to the project size, a substantial net improvement in habitat for Bay species;

(ii) no feasible alternatives to the fill exist to achieve the project purpose with fewer adverse impacts to Bay resources;

(iii) the amount of dredged material to be used would be the minimum amount necessary to achieve the purpose of the project;

(iv) beneficial uses and water quality of the Bay would be protected; and

(v) there is a high probability that the project would be successful and not result in unmitigated environmental harm;

(2) The project includes an adequate monitoring and management plan and has been carefully planned, and the Commission has established measurable performance objectives and controls that would help ensure the success and permanence of the project, and an agency or

organization with fish and wildlife management expertise has expressed to the Commission its intention to manage and operate the site for habitat enhancement or restoration purposes for the life of the project;

- (3) The project is either a small pilot project or the success of similar projects has been demonstrated in similar settings;
 - (4) The project would use only clean material suitable for aquatic disposal and would not result in a net loss of Bay surface area or volume. Any offsetting fill removal would be at or near as feasible to the habitat fill site. The Commission has solicited the advice of the San Francisco Bay Regional Water Quality Control Board, the Dredged Material Management Office and other appropriate agencies on the suitability of the dredged material;
 - (5) Dredged material would not be placed in areas with particularly high or rare existing natural resource values, such as eelgrass beds and tidal marsh and mudflats, unless the material would be needed to protect or enhance the habitat. The habitat project would not, by itself or cumulatively with other projects, significantly decrease the overall amount of any particular habitat within the Suisun, North, South, or Central Bays, excluding areas that have been recently dredged;
 - (6) The dredged material would be removed, unless it is demonstrated by competent environmental studies that removing the material would have a greater adverse effect on the Bay than allowing it to remain, and the site would be returned to the conditions existing immediately preceding placement of the dredged material if, after a reasonable period of monitoring, either:
 - (i) the project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or
 - (ii) the dredged material is found to have substantial adverse impacts on the natural resources of the Bay; and
 - (7) The Commission has consulted with the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service to ensure that at least one of these agencies supports the proposed project.
- (b) To ensure protection of Bay habitats, the Commission should not authorize dredged material disposal projects in the Bay and certain waterways for habitat creation, enhancement or restoration, with the exception of a single pilot project at a site designated by the Commission and used in a manner consistent with the regulation designating the site, until:
- (1) The Bay Plan Marshes and Mudflats and Fish and Wildlife policies have been updated and any additional objective and scientific studies have been carried out to evaluate the advisability of disposal of dredged material in the Bay and certain waterways for habitat creation, enhancement and restoration. Those additional studies should address the following:

- (i) The Baywide need for in-Bay habitat creation, enhancement and restoration, in the context of maintaining appropriate amounts of all habitat types within the Bay, especially for support and recovery of endangered species;
- (ii) The need to use dredged materials to improve Bay habitat, the appropriate characteristics of locations in the Bay for such projects, the potential short-term and cumulative impacts of such projects; and
- (2) The Commission has adopted additional Baywide policies governing disposal of dredged material in the Bay and certain waterways for the creation, enhancement and restoration of Bay habitat, which narratively establish the necessary biological, hydrological, physical and locational characteristics of candidate sites; and
- (3) The pilot project authorized under this section, if undertaken, is completed successfully.

Policy 12: The Commission should ~~encourage, sponsor and continue to~~ participate in the LTMS, the Dredged Material Management Office, and other initiatives conducting research on Bay sediment movement, the effects of dredging and disposal on Bay natural resources, alternatives to Bay aquatic disposal, and funding additional costs of transporting dredged materials to non-tidal ~~upland~~ and ocean disposal sites.

Water Related Findings

Finding (a): Certain industries, including some dredged material rehandling facilities, require a waterfront location on navigable, deep water to receive raw materials and distribute finished products by ship, thereby gaining a significant cost advantage. These industries are defined as water-related industries.

Recreation Policies

Policy 8: ~~Further study should be given to the feasibility of dredging a network of channels paralleling the shoreline in shallow areas, for use by small boats and recreational ferries. Channels could open up large areas, particularly in the South Bay and San Pablo Bay, for recreational boating, could make possible the development of marinas and launching lanes at more frequent intervals, and could add visual interest to shoreline areas. In addition, the channels could separate marshes and mudflats from dry land, thus enhancing the wildlife value of these areas.~~

Policies 9, 10: Revise the former Bay Plan Recreation policy No. 9 and 10 to correct proposed policy numbers changed as a result of the deletion of former Bay Plan Recreation policy No. 8.

Other Uses of the Bay and Shoreline Policies

Policy 3(a): Wherever waterfront areas are used for housing: ~~(a) the amount of shoreline and the surface of the area of the Bay should be increased to the maximum extent feasible by dredging additional channels inland from the Bay; and (b) (a) whenever feasible, high densities should be encouraged to provide the advantages of waterfront housing to larger numbers of people; and~~

Be It Further Resolved That, the San Francisco Bay Conservation and Development Commission hereby adopts Bay Plan Amendment 3-00 which amends the Bay Plan Maps as shown on figures 1-13; and

Be It Further Resolved That, the Commission hereby adopts Bay Plan Amendment 3-00 which amends Resolution 16 (which sets the boundaries of priority use areas along the shoreline) to reflect the deletion of the three northernmost ponds at Mare Island as follows:

18. Mare Island (Industry)

(A) Northwest Boundary: ~~Naval Reservation boundary (on San Pablo Bay).~~
Northern edge of dredged material disposal pond No. 2N.

(B) Southeast Boundary: ~~Naval Reservation boundary (on Carquinez Strait).~~
southern edge of pond No. 7; and

Be It Further Resolved That, in accord with the Federal Register, Chapter IX, Part 923.84, the Commission hereby notifies the federal Office of Ocean and Coastal Resource Management that Bay Plan Amendment 3-00 is a routine program implementation of the federally-approved coastal management program of the San Francisco Bay segment of the California coastal zone because the modification involves no substantial change in the Commission's enforceable policies related to: (1) the coastal zone boundaries; (2) uses subject to the Commission's coastal management program; (3) the criteria or procedures for designation or managing areas of particular concern or areas for preservation or restoration; or (4) the consideration of the national interest involved in the planning for and the siting of facilities that are necessary to meet requirements which are other than local in nature; and

Be It Further Resolved That, in accord with Commission Regulation Section 10814 and the Federal Register, Chapter IX, Part 923.84(4), the Executive Director is hereby directed to make every reasonable effort to assure that notice of this resolution is given to all interested persons at the appropriate time.

Executed on this ____ day of _____, 2000 at San Francisco, California

ROBERT R. TUFTS

Chairman

Executed on this ____ day of _____, 2000 at San Francisco, California

WILL TRAVIS

Executive Director

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In the hardcopy version of this report, this section contains the recommended changes to the Bay Plan Maps.

Please contact BCDC staff if you desire to obtain a copy of this section. A hardcopy will be provided upon request.

**Title 14 CCR Division 5 Sections 10720 through 10729,
Dredged Material Disposal Allocations**

Final Recommended Text

Add to Chapter Seven, Special Rules, as follows:

Article 4. Dredging

10720. Commission Procedure For Determining If It Should Decline To Implement Individual In-Bay Dredged Material Allocations.

- (a) The Commission shall hold a public hearing to determine whether or not to implement an individual in-Bay dredged material allocation (1) within 60 days of the Executive Director's determination at the triennial reviews starting 2004 that the average annual total volume of dredged material disposed of over the preceding three-year period at all the in-Bay disposal sites designated by the Commission exceeds the target volume specified in Section 10721 or (2) within 60 days of receipt of a written request to hold such a meeting from the Long Term Management Strategy Management Committee. If an analysis of the factors affecting the need for allocations, including (1) the status of alternatives to in-Bay disposal and cooperative efforts to implement them, (2) exigencies that hamper the use of alternative sites, and (3) other relevant factors and any needed environmental documentation has not been submitted by the LTMS Management Committee as part of the written request or if in-Bay disposal volumes exceed the target volumes, then such an analysis will be prepared by the Commission staff prior to the public hearing on the matter.
- (b) The Commission shall vote on whether or not to implement such a program within 60 days of the close of the public hearing.
- (c) The Commission shall implement a program of individual in-Bay dredged material disposal allocations unless a majority of those Commissioners present and voting vote not to implement the program.
- (d) The program will commence no later than six months after the Commission vote if the Commission vote results in a determination to implement an allocation program.

10721. Target Volumes.

- (a) The target volume for the calendar years of 2001-2003 is 3.05 million cubic yards.
- (b) The target volume for the calendar years of 2004-2006 is 2.66 million cubic yards.
- (c) The target volume for the calendar years of 2007-2010 is 2.27 million cubic yards.
- (d) The target volume for the calendar years of 2010-2013 is 1.78 million cubic yards.
- (e) The target volume for the calendar years thereafter is 1.89 million cubic yards.

10722. Individual Disposal Allocations.

- (a) Commencing on January 1, 2001 and every three years thereafter, the Executive Director shall determine an in-Bay dredged material disposal allocation for each dredging project sponsor.
- (b) The allocation shall be valid for a three-year period from January 1 following the date of determination and extending to the day that the Executive Director makes a new determination for the next three-year period.
- (c) The allocation shall be equal to three times the product of the project sponsor's average annual dredging volume as determined according to Section 10723 and the step-down factor as designated in Section 10724.
- (d) Notwithstanding (c) above, the Executive Director may determine additional contingency allocations for in-Bay disposal up to a cumulative Bay-wide limit of 250,000 cubic yards each calendar year, for unanticipated or emergency dredging needs.

10723. Average Annual Dredging Volumes.

The average annual dredging volume is defined as the average of the annual dredging volumes disposed by each dredging project sponsor during the eight calendar years 1991 through 1998. For dredging projects (1) proposing Bay disposal in excess of their allocation or (2) that did not dispose in the Bay between 1991 and 1998 and that are otherwise consistent with the Commission's law and policies governing in-Bay disposal, the Executive Director will determine an average annual dredging volume based upon the minimum average volume

needed to maintain the approved channel, berthing areas, or other areas approved to be dredged.

10724. Allocation Step-Down Factor.

- (a) The step down factor for January 1, 2004 through December 31, 2006 is 0.861.
- (b) The step down factor for January 1, 2007 through December 31, 2009 is 0.723.
- (c) The step down factor for January 1, 2010 through December 31, 2012 is 0.584.
- (d) The step down factor for January 1, 2013 and thereafter is 0.446.

10725. Unused Allocation Banking.

Each dredging project sponsor may carry over the unused portion of an individual in-Bay disposal allocation from one three-year period to the next, and any disposal allocation carried over shall be in addition to the total individual allocation for that sponsor as determined by the Executive Director pursuant to Sections 10722, 10723, and 10724.

10726. Small Dredger Exception.

Small dredgers are exempt from the individual in-Bay dredged material disposal allocation process, but they must still fully comply with all other McAteer-Petris and San Francisco Bay Plan policies regarding dredging and the disposal of dredged material.

10727. Small Dredgers

Small dredgers are defined to be project sponsors of dredging projects with a depth no deeper than -12 feet Mean Lower Low Water (not including over-depth dredging) and generating an average yearly volume as defined in Section 10723 of less than 50,000 cubic yards of material.

10728. Termination of Individual Dredged Material Disposal Allocations

- (a) Within 60 days of either (1) a written determination by the Executive Director that the average annual volume of dredged material disposed of over the preceding triennial review period at all in-Bay disposal sites designated by the Commission no longer exceeds the target volumes specified in Section 10721 or (2) the Long Term Management Strategy Management Committee recommends ending allocations, the Commission will hold a public hearing to determine whether or not to end the imposition of individual dredged material disposal allocation.

- (b) Within 60 days of the close of the public hearing, the Commission will vote on whether or not to end the imposition of individual dredged material disposal allocations.
- (c) The Commission shall end the imposition of individual dredged material disposal allocations unless the Commission determines by a majority of those Commission members present and voting not to end the imposition of individual dredged material disposal allocations.

10729. Reimplementation of Individual Allocations For the In-Bay Disposal of Dredged Material.

After terminating the imposition of individual dredged material disposal allocations, the Commission can reimpose individual dredged material disposal allocations only if the conditions specified in Sections 10720 and 10721 exist and the Commission determines to impose the allocations pursuant to Section 10720.